

AMENDED IN ASSEMBLY MAY 6, 2008

AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2796

Introduced by Assembly Member Nava

February 22, 2008

~~An act to amend Section 1714.5 of the Civil Code, and to add Section 8659.5 to the Government Code, relating to civil obligations. An act relating to emergency services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2796, as amended, Nava. ~~Civil obligations. Emergency services.~~

Under existing law, the California Emergency Services Act, it is the responsibility of the state to mitigate the effects of natural, manmade, or war-caused emergencies which result in conditions of disaster or in extreme peril to life, property, and the resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state. To ensure that preparations within the state will be adequate to deal with such emergencies, the state is authorized, among other things, to establish any organization and to take any action necessary to carry out the provisions of the act, and to coordinate as far as possible all emergency services functions of the state with comparable functions of this state, the federal government, the political subdivisions of this and other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with any emergency that may occur.

This bill would provide that it is the intent of the Legislature to amend the California Emergency Services Act so as to encourage conscientious nongovernmental entities to volunteer resources and assistance during states of emergency and to participate in preplanning and coordination efforts designed to lead to a more comprehensive and effective emergency response in order to reduce injury and loss of life as economically and efficiently as is practicable.

~~Existing law generally provides that every person is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except as specified.~~

~~Existing law exempts certain persons and agencies from liability during a state of emergency under specified circumstances. Existing law exempts from liability the state and any city, county, city and county, or other political subdivision of the state, or a person that owns or maintains a building or premises that have been designated as a defense shelter in certain emergency situations.~~

~~This bill would additionally exempt from liability a nonprofit, religious, or private business entity that owns or maintains a building or premises that have been designated as a defense shelter in certain emergency situations.~~

~~This bill would also exempt a private business entity or nonprofit or religious organization that is duly enrolled or registered with the Office of Emergency Services or a responsible county or city emergency management entity that voluntarily and without the expectation of, or receipt of, compensation provides services or other specified resources during any state of emergency or formal exercise or training at the express request of the Office of Emergency Services or that responsible county or city emergency management entity from liability for any injury sustained by any person by reason of those services or resources, except for damage or injury proximately caused by a grossly negligent act or omission or willful or wanton misconduct by that entity or organization.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. It is the intent of the Legislature to amend the*
2 *California Emergency Services Act so as to encourage*

1 *conscientious nongovernmental entities to volunteer resources*
2 *and assistance during states of emergency and to participate in*
3 *preplanning and coordination efforts designed to lead to a more*
4 *comprehensive and effective emergency response in order to reduce*
5 *injury and loss of life as economically and efficiently as is*
6 *practicable.*

7 SECTION 1. ~~Section 1714.5 of the Civil Code is amended to~~
8 ~~read:~~

9 ~~1714.5. There shall be no liability on the part of the State of~~
10 ~~California, any county, city and county, city, or any other political~~
11 ~~subdivision of the State of California, or a person, or a nonprofit,~~
12 ~~religious, or private business entity that owns or maintains any~~
13 ~~building or premises that have been designated as a shelter from~~
14 ~~destructive operations or attacks by enemies of the United States~~
15 ~~by any disaster council or any public office, body, or officer of~~
16 ~~this state or of the United States, or that have been designated or~~
17 ~~are used as mass care centers, first aid stations, temporary hospital~~
18 ~~annexes, mass dispensing sites, or as other necessary facilities for~~
19 ~~mitigating the effects of a natural, manmade, or war-caused~~
20 ~~emergency, for any injuries arising out of the use thereof for those~~
21 ~~purposes sustained by any person while in or upon the building or~~
22 ~~premises as a result of the condition of the building or premises,~~
23 ~~or as a result of any act or omission, or in any way arising from~~
24 ~~the designation of the premises as a shelter, or the designation or~~
25 ~~use thereof as a mass care center, first aid station, temporary~~
26 ~~hospital annex, or other necessary facility for those emergency~~
27 ~~purposes, except a willful act, of the owner or occupant or his or~~
28 ~~her servants, agents, or employees when the person has entered or~~
29 ~~gone upon or into the building or premises for the purpose of~~
30 ~~seeking refuge, treatment, care, or assistance therein during~~
31 ~~destructive operations or attacks by enemies of the United States,~~
32 ~~during tests or formal exercises or training ordered by lawful~~
33 ~~authority, or during a natural or manmade emergency.~~

34 ~~No disaster service worker who is performing disaster services~~
35 ~~ordered by lawful authority during a state of war emergency, a~~
36 ~~state of emergency, or a local emergency, as those emergencies~~
37 ~~are defined in Section 8558 of the Government Code, shall be~~
38 ~~liable for civil damages on account of personal injury to or death~~
39 ~~of any person or damage to property resulting from any act or~~
40 ~~omission in the line of duty, except one that is willful.~~

1 ~~SEC. 2.~~ Section 8659.5 is added to the Government Code, to
2 read:

3 ~~8659.5. (a) Any private business entity or nonprofit or religious~~
4 ~~organization that is duly enrolled or registered with the Office of~~
5 ~~Emergency Services, or any responsible county or city emergency~~
6 ~~management entity or federally recognized Indian tribe of this state~~
7 ~~that voluntarily and without the expectation of, or receipt of,~~
8 ~~compensation provides services, goods, facilities, equipment,~~
9 ~~materials, labor, or any other resources or assistance during any~~
10 ~~state of war emergency, state of emergency, a local emergency,~~
11 ~~or during a formal exercise or training of the Office of Emergency~~
12 ~~Services, or a responsible county or city emergency management~~
13 ~~entity at the request and direction of the Office of Emergency~~
14 ~~Services, or a responsible county or city emergency management~~
15 ~~entity shall have no liability for any injury sustained by any person~~
16 ~~by reason of those services, goods, facilities, or resources provided,~~
17 ~~except for damages or injury proximately caused by a grossly~~
18 ~~negligent act or omission or willful or wanton misconduct of that~~
19 ~~entity or organization.~~

20 ~~(b) The provisions of this section shall not apply to any~~
21 ~~charitable corporation or unincorporated association organized~~
22 ~~and operated primarily as a hospital, or a health care service plan~~
23 ~~licensed pursuant to Section 1349 of the Health and Safety Code.~~